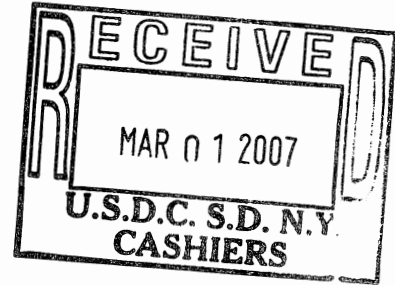


Judge Berman**07 CV 1784**

Jennifer Meredith (JM 4816)
 Dariush Keyhani (DK 9673)
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 New York, New York 10017
 Telephone (212) 760-0098
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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK**

-----X		
Pitbull Productions, Inc.,)	COMPLAINT
)	
Plaintiffs,)	
v.)	
)	JURY TRIAL
Alpha Red, Inc., Universal)	DEMANDED
Netmedia, Inc., John Does 1-10)	
)	
Defendants.)	
-----X		

Plaintiff Pitbull Productions, Inc. by their attorneys Meredith & Keyhani, PLLC,
 as and for its complaint against Defendants alleges as follows:

NATURE OF THE ACTION

1. Plaintiffs bring this action to stop Defendants from continuing to encourage, enable and profit from the infringement of Plaintiffs copyrights, trademarks and trade dress on the Internet. Defendants have developed and control a network largely dedicated to the repeated and exploitative unauthorized distribution and reproduction of Plaintiffs works. Defendants provide their users with a fully integrated infrastructure that connects them to infringing digital files. The website even encourages users to infringe through a point system that gives users more access according to the number of movies they upload. Defendants are building a business based on the daily massive infringement

that they enable and encourage. Defendants conduct has caused and continues to cause Plaintiffs grave and irreparable harm.

THE PARTIES

2. Plaintiff, Pitbull Productions, Inc. ("Pitbull"), is a company organized and registered in Delaware under the laws of Delaware with a place of business at 200 East 116th Street, Suite 2N, New York, New York 10029.

3. Defendant, Alpha Red is located at 1415 Louisiana, Suite 2220, Houston, Texas 77002.

4. Defendant, Universal Netmedia, Inc. has mailing address at P.O. Box 7489, Coral Springs, FL 33071.

5. Upon information and belief, John Does 1-10 are various individuals responsible for selling and aiding others in the promotion of pirated goods.

JURISDICTION AND VENUE

6. The Court has jurisdiction over this action pursuant to 28 U.S.C. §1331, §1338, and §1367 as the present case arises under the Lanham Act, 15 U.S.C. §1051 et seq., as amended, copyright infringement, false designation of origin, trade dress infringement, and unfair competition as well as trademark infringement and unfair competition arising under the common law of the State of New York and as is hereinafter more fully described.

7. On information and belief, Defendants actively target the New York market and consumers.

16. On or about February 20, 2007, a representative from Pitbull Productions became aware of postings of entire videos on the Defendants website What's Tea (www.whatstea.com).

17. On February 20, 2007, an email was sent to What's Tea informing them that they were aware of numerous postings of images with links to downloads of entire DVDs owned and produced by Plaintiffs. Plaintiffs demanded that defendants remove the content, which went unanswered. The content, including images, trademarks and content, remain on their website for users to download for free while Defendants profit from advertisers.

18. The Internet is a worldwide network of millions of computers and computer networks that enable computer users to communicate with one another through the transmission of information from one computer to another. Recent years have seen the development and refinement of technologies for the reproduction and distribution of various types of infringing files, including files containing images and motion pictures.

19. Defendants have created and control an extensive and integrated network that uses the Internet to connect people throughout the world and encourages and enables them to pool various types of infringing files. Defendants provide their users with the infrastructure, technological means and support and services to accomplish these infringements. Defendants are involved in and enable this process in a way that assists and facilitates their users' infringements.

20. Defendants have made their network available throughout the United States and the world. At any given time, an enormous number of infringing digital files are available for downloading through the Defendants' network.

21. Images and content owned by the Plaintiffs are uploaded by users without the permission of Plaintiffs.

22. Defendants' use of Plaintiff's trademarks and trade dress is confusingly similar to Plaintiff's trademarks. Plaintiff's trademarks are prominently displayed to entice consumers.

23. Defendants' use of counterfeits Plaintiff's trademarks in connection with images and adult entertainment content are in direct competition with Plaintiff's goods and are likely to cause confusion, mistake or deception among the relevant trade and public.

24. Upon information and belief, Defendants are engaging in this course of action willfully and with full knowledge and awareness of the superior trademark rights of Plaintiff, and with the purpose and intent of confusing the relevant trade and public into mistakenly believing that Defendants' services are associated with, affiliated with, or licensed by Plaintiff.

25. Plaintiff has suffered, is suffering, and will continue to suffer, irreparable damage to its reputation, potential goodwill and monies spent towards development and the goodwill accumulated through their respective trade dress, copyright and trademarks unless Defendants are restrained by this Court.

26. Plaintiffs have no adequate remedy at law.

COUNT I – TRADEMARK AND TRADE DRESS INFRINGEMENT

27. Plaintiff repeats each and every allegation set forth herein in paragraphs 1 through 26 as through fully set forth herein

28. Defendants' aforesaid activities constitute trademark and trade dress infringement under the Lanham Action, including Section 43(a) of Plaintiff's Trademark rights.

29. Defendants' acts complained herein are likely to cause confusion, mistake, and deception of the relevant trade and public who are likely to believe that the services provided by Defendants are related to, connected to, or approved by Plaintiff when in fact they are not.

COUNT II – FALSE DESIGNATION OF ORIGIN

30. Plaintiff repeats each and every allegation set forth herein in paragraphs 1 through 29 as though fully set forth herein.

31. Defendants' aforesaid activities constitute false designation of origin in violation of Section 43(a) of the Lanham Act, 15 U.S.C § 1125(a).

32. Defendants' use of Plaintiffs' trademarks is likely to cause confusion, mistake or deception among the relevant trade and public as to the existence of an affiliation, connection, or association between Defendants and Plaintiff as to the origin, sponsorship or approval of the services provided by Defendants.

COUNT III – COMMON LAW TRADEMARK INFRINGEMENT AND UNFAIR COMPETITION

33. Plaintiff repeats each and every allegation set forth herein in paragraphs 1 through 32 as though fully set forth herein.

34. Defendants' aforesaid activities constitute infringement of Plaintiff's trademarks and constitute trademark infringement and unfair competition under the common law of the State of New York.

COUNT IV- COPYRIGHT INFRINGEMENT

35. Plaintiff repeats each and every allegation set forth herein in paragraphs 1 through 34 as though fully set forth herein.

36. Instances of copyright infringement occur, *inter alia*, whenever one of Defendants user, without authorization of the copyright owner, uses Defendants' network to download a copyrighted content file and/or images. Such acts constitute unauthorized reproduction and distribution and result in unauthorized copies. Defendants participate in, facilitate, materially contribute to and encourage these infringements.

37. Defendants' aforesaid activities constitute infringement of Plaintiff's copyrights.

WHEREFORE, Plaintiff prays that:

A. Defendants, their agents, servants, employees, franchisees, licensees, attorneys and all others in active concert or participation with Defendants, be enjoined and restrained, during the pendency of this action as preliminary injunction and permanently thereafter from:

1. Using, copying or otherwise exploiting Plaintiffs copyrights and copyrighted works;

2. Using, disclosing, converting, appropriating, retaining, selling, transferring or copying any property of Plaintiffs;

3. Using any of the marks attached hereto as Exhibit B and Exhibit C or any colorable imitation of any of the marks attached hereto as Exhibit B and Exhibit C, in connection with the distribution of images and content at Defendants' website;

4. Doing any other act or thing likely to, or calculated to, induce the belief that Defendants or Defendants' business is in any way affiliated, connected or associated with Plaintiff, or Plaintiff's business;

5. Unfairly competing with plaintiffs in any manner.

B. Within ten (10) days after the entry of an order for either preliminary or permanent injunction, Defendants be required to turn over any files bearing any of the trademarks in Exhibit B and Exhibit C;

C. Defendants, their agents, servants, employees, franchisees, licensees, attorneys and all others in active concert or participation with Defendants be required to

deliver up for destruction all DVDs, DVD covers, labels, letterhead, business cards, signs, prints, packages, wrappers, receptacles, advertisements and the like in their possession bearing the name or mark of any of the trademarks in Exhibit B and Exhibit C or any other reproduction, counterfeit, copy or colorable imitation of the trademarks listed in Exhibit B and Exhibit C.

D. Plaintiff recover the Defendants' profits, as well as the damages sustained by Plaintiff due to Defendants' infringement of Plaintiff's trademark rights, such amount of profits and damages to be trebled.

E. Defendants be required in accordance with 15 U.S.C § 1116 to file with the Court and serve upon Plaintiff a report in writing under oath setting forth in detail the manner and form in which Defendants has complied with the terms of the injunction.

F. Awarding Plaintiff such damages, including compensatory and punitive damages, as are appropriate in view of the conduct, including the willful conduct, on the part of Defendants.

G. Defendants be required to pay Plaintiff the costs of this action, together with reasonable attorney's fees and disbursements.

H. Plaintiff be awarded statutory damages, pursuant to the Copyright Act.

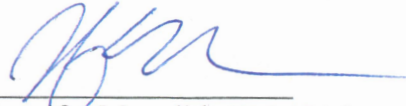
I. Plaintiff to have such other and further relief as this Court deems just and equitable.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs demand a trial by jury of all issue properly triable by jury in this action.

Dated: March 1, 2008

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'JM', is written over a horizontal line.

Jennifer Meredith (JM 4816)
Meredith & Keyhani, PLLC
330 Madison Avenue
6th Floor
New York, New York 10017
Telephone (212) 760-0098
Facsimile (212) 202-3819

EXHIBIT A

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Form TX
For a Nonperiodic Literary Work
UNITED STATES COPYRIGHT OFFICE

TX 5-882-870

EFFECTIVE DATE OF REGISTRATION
3 1 04
Month Day Year

DO NOT WRITE ABOVE THIS LINE IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET

1

TITLE OF THIS WORK

Pitbull Productions Collection of Images

PREVIOUS OR ALTERNATIVE TITLES

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared **Title of Collective Work**

If published in a periodical or serial give **Volume** **Number** **Issue Date** **On Pages**

2

a NAME OF AUTHOR

Pitbull Productions Inc

DATES OF BIRTH AND DEATH

Year Born Year Died

Was this contribution to the work a "work made for hire?"
☐ Yes ☐ No

AUTHOR'S NATIONALITY OR DOMICILE
Name of Country
OR Citizen of USA
Domiciled in USA

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK
Anonymous? ☐ Yes ☐ No
Pseudonymous? ☐ Yes ☐ No

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed
Internet Website * Photos and some text

NOTE

Under the law the author of a "work made for hire" is generally the employer not the employee (see instructions) For any part of this work that was made for hire check "Yes" in the space provided give the employer (or other person for whom the work was prepared) as "Author" of that part and leave the space for dates of birth and death blank

b NAME OF AUTHOR

DATES OF BIRTH AND DEATH

Year Born Year Died

Was this contribution to the work a "work made for hire?"
☐ Yes ☐ No

AUTHOR'S NATIONALITY OR DOMICILE
Name of Country
OR Citizen of USA
Domiciled in USA

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK
Anonymous? ☐ Yes ☐ No
Pseudonymous? ☐ Yes ☐ No

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed

c NAME OF AUTHOR

DATES OF BIRTH AND DEATH

Year Born Year Died

Was this contribution to the work a "work made for hire?"
☐ Yes ☐ No

AUTHOR'S NATIONALITY OR DOMICILE
Name of Country
OR Citizen of USA
Domiciled in USA

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK
Anonymous? ☐ Yes ☐ No
Pseudonymous? ☐ Yes ☐ No

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed

3

a YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED

2003 Year in which work was completed

b DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK

Complete this information: Month December Day 16 Year 2003
Country USA

4

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2

Pitbull Productions, Inc
PO Box 550244
North Waltham, MA 02455

TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright

APPLICATION RECEIVED
ONE DEPOSIT RECEIVED
TWO DEPOSITS RECEIVED
FUNDS RECEIVED
MAY 1 2004
MAY 1 2004

MORE ON BACK

Complete all applicable spaces (numbers 5-8) on the reverse side of this page
See detailed instructions Sign the form at the bottom

DO NOT WRITE HERE

Page 1 of 2 pages

*Mended by CD from phone call to Jennifer Meredith
on 3/8/04

EXAMINED BY <u>WMD</u>	FORM TX
CHECKED BY _____	
<input type="checkbox"/> CORRESPONDENCE	FOR
Yes	COPYRIGHT
	OFFICE
	USE
	ONLY

DO NOT WRITE ABOVE THIS LINE IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☐ Yes ☒ No If your answer is Yes why is another registration being sought? (Check appropriate box) ☐ V

a ☐ This is the first published edition of a work previously registered in unpublished form

b ☐ This is the first application submitted by this author as copyright claimant

c ☐ This is a changed version of the work, as shown by space 6 on this application

If your answer is Yes, give Previous Registration Number >

Year of Registration >

5

DERIVATIVE WORK OR COMPILATION

Preexisting Material Identify any preexisting work or works that this work is based on or incorporates >

a

6

Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed >

See instructions
before completing
this space

b

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office give name and number of Account
Name > Account Number >

a

7

CORRESPONDENCE Give name and address to which correspondence about this application should be sent Name/Address/Apt/City/State/ZIP >

b

Jennifer Meredith
350 Fifth Avenue, Suite 7720
New York, NY 10118

Area code and daytime telephone number > (212) 760 0098

Fax number > (212) 594 2944

E-mail >

jmeredith@meredithkeyham.com

CERTIFICATION I, the undersigned, hereby certify that I am the

Each entry on >

☐ author

☐ other copyright claimant

☐ owner of exclusive right(s)

☒ authorized agent of

Publiff Productions Inc

Name of author or other copyright claimant, or owner of exclusive right(s) >

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge

Typed or printed name and date > If this application gives a date of publication in space 3 do not sign and submit it before that date

Jennifer Meredith

Date > February 26, 2004

Handwritten Signature >

x

J. Meredith

Certificate will be mailed in window envelope to this address

Name >
Jennifer Meredith
Number/Street/Apt >
350 Fifth Avenue Suite 7720
City/State >
New York, New York 10118

Complete all necessary spaces
Sign your application in space 9

1. Application fee
2. Non-refundable filing fee by check or money order payable to Registrar of Copyrights
3. Deposit material

Copyright Office
101 Independence Avenue SE
Washington DC 20540-4072

See the instructions
before completing
this space

9

17 USC § 405(d) Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 405 or in any written statement filed in connection with the application shall be fined not more than \$2,000

EXHIBIT B

	Application Number	Registration Number	Description of Trademark	Trademark Owner
1	<u>78725369</u>	<u>3192256</u>	<u>HOT & CREAMY</u>	Pitbull Productions, Inc.
2	<u>78627873</u>	<u>3129121</u>	<u>THUG PORN</u>	Pitbull Productions, Inc.
3	<u>78376524</u>	<u>2938064</u>	<u>THUGPORN.COM SINCE 2003</u>	Pitbull Productions, Inc.
4	<u>78376333</u>	<u>2934966</u>	<u>THUGPORN.COM</u> <u>TP THUGPORN.COM SINCE</u>	Pitbull Productions, Inc.
5	<u>78337523</u>	<u>2975836</u>	<u>2003</u>	Pitbull Productions, Inc.
6	<u>78191313</u>	<u>2980724</u>	<u>PITBULL</u>	Pitbull Productions, Inc.

EXHIBIT C

ALL AROUND PLAYAZ
BEST OF THUGPORN.COM
BIG BOOTY GANGBANG
BLACK HOLES
BOTTOMS UP
DILLON, THE ONE
HOT & CREAMY
LIL NELLIE: PAIN IN DA AZZ
LOVE OF THE DICK 1
LOVE OF THE DICK 2
LOVE OF THE DICK 3
LOVE OF THE DICK 4
LOVE OF THE DICK 5
LOVE OF THE DICK 6
LORD OF DA PINGA
MEATWACKERS 1
MEATWACKERS 2
MEATWACKERS 3
MEATWACKERS 4
MEATWACKERS 5
MENACE TO STR8 THUGZ
PACKIN PAPI
PAPI GOT FLAVA
RIPPED & READY
TIGER TYSON'S EIFFEL TOWER – PARIS IS MINE
TIGER TYSON - IN THE HEAT
TIGER TYSON - SECRETS
TIGER TYSON STRIKES BACK
SPREAD DAT BUTTA
STEEL CURTAIN
STRAIGHT MEAT
STRAIGHT SHOOTER
TAKE 'EM DOWN 1
TAKE 'EM DOWN 2
THE SHOW 1
THE SHOW 2
THE WAY YOU LIKE IT
THUGZILLA'S BITCH HUNT